

F

259

N 854

North Carolina. Governor, 1868-1871 (W.W. Holden)

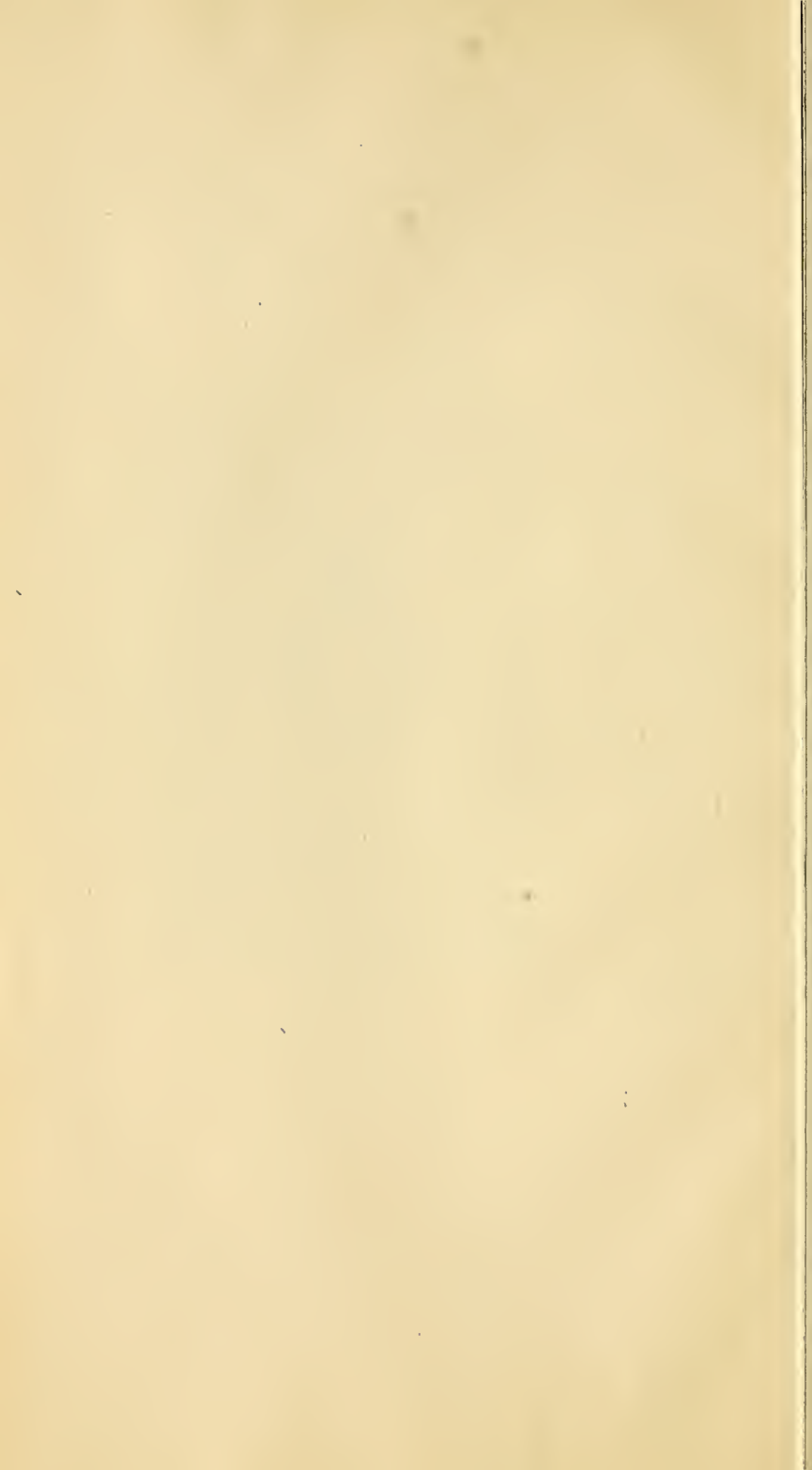
Proclamations...together with the opinion
of Chief-justice Pearson, and the reply
of the governor.

Raleigh, 1870.



Glass F259

Book N254





PROCLAMATIONS

By the GOVERNOR of NORTH CAROLINA :

TOGETHER WITH

THE OPINION OF CHIEF-JUSTICE PEARSON.

AND

THE REPLY OF THE GOVERNOR.

RALEIGH :

STANDARD STEAM BOOK AND JOB PRINT.

1870.

PROCLAMATIONS

By the GOVERNOR of NORTH CAROLINA :

TOGETHER WITH

THE OPINION OF CHIEF-JUSTICE PEARSON.

AND

THE REPLY OF THE GOVERNOR.

RALEIGH:

STANDARD STEAM BOOK AND JOB PRINT.

1870.

F259

.N854

Recd L L R 17

PROCLAMATIONS, &c.



A PROCLAMATION,

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
RALEIGH, October 12th, 1868.

Information has been received at this department that military weapons, such as repeating rifles of various kinds, have been imported into this State, and have been distributed with ammunition and equipments to citizens in several localities. It is believed that boxes containing arms, ammunition and equipments are concealed in divers places, ready to be distributed as opportunity may offer.

The object of the persons thus engaged must be either to subvert the government, to resist the constituted authorities, or to prevent a free election in this State on the third day of next month.

The government of North Carolina has been lawfully and constitutionally established. This government has been freely and voluntarily formed by a majority of the citizens in pursuance of acts constitutionally passed by the Congress, under which my immediate predecessor held office from the 2d day of March, 1867, to the 1st day of July, 1868. The constitu-

tionality of these acts, if questioned during this period, were nevertheless subscribed to and maintained by him, and by every department of the government, from the said 2d day of March, 1867, to the said 1st day of July, 1868; and now, that they have been executed by the common consent of the whole people voting under them at the polls for members of a Convention, for the new Constitution, and for members of Congress and State officers, the result which has been effected closes the discussion in relation to them, and renders the present Constitution of government as valid and binding as were the Constitutions of 1776 and 1835.

This government will be maintained for the following, among other reasons :

1st. It has been lawfully and constitutionally established by the whole people of the State. It is operating smoothly and harmoniously. Under it the people are quiet and peaceable, and are just entering anew on a career of prosperity. It must not be upset or even assailed, because the colored people have been allowed to vote; or because they will vote with a certain party; or because a few public men are out of office and a few are in.

2d. Senators and Representatives have been admitted by the Congress to seats in that body. The State is, therefore, *of* as well as *in* the Union. It is as much of the Union as New York or any other State. No State can secede, nor can Congress push a State out, or sever its relations with the common government. If Congress should, therefore, do what is exceedingly improbable, repeal the reconstruction acts, such repeal would have no more effect than a repeal of the act admitting Texas or Kansas to representation. The reconstruction acts have been executed, and are, therefore, beyond the reach of Congress.

3d. The Supreme Court has no jurisdiction of the subject. Its powers are expressly defined by the Constitution to be "judicial," and not political. It has already decided that the question of admission to representation is a political question,

and that when determined by Congress, as it has been in relation to North Carolina, the court will not interfere.

4th. The President would have no more power to declare the reconstruction acts null and void, with a view to the extinguishment of the government of this State, than I would have to declare that a certain County or Counties in this State should cease to exist.

The government of North Carolina is, therefore, as firmly established as that of any other State. It has the same control of the right of suffrage, and of its own internal affairs, as the other States have; and it possesses equal power with the other States to protect and perpetuate itself.

The right of the people to have arms in their houses, and to "bear" them under the authority of law, is not questioned. On the contrary, it is claimed as a constitutional right sacred to freemen. The use of arms by the male population, for peaceable and lawful purposes, should rather be encouraged than otherwise; but when, in time of peace, weapons of an extraordinary character are imported into the State by political organizations, and deposited and distributed in a secret manner among persons whose spokesmen deny the authority of the existing government, and who publicly declare that all government, to be authoritative and binding, must proceed alone from one race of our people, a state of affairs is at once constituted which renders it the duty of every officer and every citizen to be more than usually vigilant. It can not be pretended that these arms are intended for hunting or sporting purposes. It can not be justly assumed that they are necessary for the protection of those who have them, since the whole power of the State and general governments is pledged to protect the peaceable and the law-abiding, whoever and wherever they may be.

If it be the purpose of any portion of the people in any event to resist the laws or to subvert the government, they should bear in mind that TREASON is the highest crime that can be committed; that they are liable to arrest and punishment

under the "Act to punish conspiracy, sedition and rebellion," which will be enforced, if necessary, with a firm hand; and they should reflect that the magnanimity of the government, which spared the lives and the estates of those who engaged in the late rebellion, may not be extended a second time to save them from the consequences of their crimes.

If it be the purpose of any portion of the people, by the use of arms, or by threats or intimidation, to prevent the people from going to the polls and voting as they may choose to vote on the third day of next month, it is my duty to inform them that force will be met with force, and that every person who may thus violate the law will be punished. Every race of men in this State is free. The colored citizen is equally entitled with the white citizen to the right of suffrage. The poor and the humble must be protected in this right equally with the affluent and the exalted. The election must be absolutely free.

In view, therefore, of this condition of affairs, I have deemed it my duty to issue this Proclamation, admonishing the people to avoid undue excitement, to be peaceable and orderly, and to exercise the right of suffrage firmly and calmly, without violence or force of any kind. Every good citizen is gratified that North Carolina is at present as quiet and peaceable as any State of the Union. Let us maintain this good name for our State. Let us frown indignantly on the use of brute force, or bribes, or threats, to control the election; and let every officer of the State, civil and military, be prepared to check instantly any incipient step to sedition, rebellion or treason.

The flag of the United States waves for the protection of all. Every star upon it shines down with vital fire into every spot, howsoever remote or solitary, to consume those who may resist the authority of the government, or who oppress the defenceless and the innocent. The State government will be maintained; the laws will be enforced; every citizen, whatever his political sentiments, will be protected in his rights; the unlawful use of arms will be prevented, if possible, and if

not prevented, will be punished; and conspiracy, sedition and treason will raise their heads only to be immediately subdued by the strong hand of military power. The General commanding this department has instructed the district and post commanders to "act in aid and co-operation, and in subordination to the civil authorities," in maintaining the peace and in securing a free election. The power of both governments is thus pledged to peace, order and tranquility.

It is specially enjoined on all officers of the Detailed Militia to observe the "act to organize a militia of North Carolina," and to act in strict subordination to the civil power. And all Magistrates, Sheriffs and other peace officers are also specially enjoined to be vigilant, impartial, faithful and firm in the discharge of their duties, magnifying and enforcing the law, ferreting out offenders, protecting the weak against the strong who may attempt to deprive them of their rights; to the end that the wicked may be restrained, the peace of society preserved, the good name of the State maintained, and the government perpetuated on the basis of Freedom and Justice to all.

Done at our city of Raleigh, on the 12th day of
 { L. S. } October, in the year of our Lord one thousand eight
 hundred and sixty-eight, and in the ninety-third
 year of our Independence.

W. W. HOLDEN, *Governor*.

By the Governor:

ROBERT M. DOUGLAS, *Private Secretary*.

A PROCLAMATION,

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,

RALEIGH, April 16, 1869.

It is my duty to publish the following act, passed by the General Assembly of North Carolina at its recent session :

AN ACT MAKING THE ACT OF GOING MASKED, DISGUISED OR
PAINTED A FELONY.

SECTION 1. *The General Assembly of North Carolina do enact*, Any person who shall disguise himself by painting his face, or by wearing any mask or any other device for the concealment of the face or person with intent to terrify or frighten any citizen or the community, or part thereof, shall be deemed guilty of a misdemeanor, and be punished by fine or imprisonment in the County jail, at the discretion of the Court.

SEC. 2. Any person or persons, either singly or in association with each other, who, being disguised or masked, or otherwise concealed in the manner described in the preceding section, shall commit any trespass or act by force or violence, which is now a misdemeanor by any statute of this State, or at common law, shall be deemed guilty of felony, and shall be imprisoned at hard labor in the Penitentiary for a term of not less than one year, or more than ten years.

SEC. 3. This act shall go into effect on its ratification, and the Governor shall cause the same to be published immediately.

Ratified the 12th day of April, A. D. 1869.

No person in this State can be "in any manner deprived of his life, liberty or property, but by the law of the land." Every man's house is his castle, into which no man can enter to molest or disturb him unless by authority of law. The humblest and the poorest are entitled to this protection equally with the wealthiest and most exalted. The Courts will extend this protection, and the Executive is prepared to sustain the Courts, and to do everything within the sphere of his powers and duties to preserve peace and good order in society. Bands of men who go masked and armed at night, causing alarm and terror in neighborhoods, and committing acts of violence on the inoffensive and defenceless, will be followed and brought to justice : and depredators and robbers, who live on the honest

earnings of others, will be made to feel the penalty due to their crimes.

It is hoped the evils complained of, and which are confined to a few localities, will speedily cease. The great body of the people of the State are submitting quietly and peaceably to established authority, and laboring assiduously to retrieve their fortunes and improve their condition. I appeal to this great body of the people to unite with me in discountenancing and repressing the evils referred to. Public opinion properly embodied and expressed will be more effectual in repressing these evils, and in promoting the general good that will result from the complete establishment of peace and order in every neighborhood in the State, than the execution of the law it self against offenders in a few individual cases. I respectfully and earnestly invoke this public opinion. By the regard which we all have for the peace of society and the good name of the State, I call upon every citizen to unite with me in discountenancing disorders and violence of all kinds, and in fostering and promoting confidence, peace and good-will among the whole people of the State.

Done at our City of Raleigh, this the 16th day of
 { L. S. } April, one thousand eight hundred and sixty-nine,
 and in the year of the independence of the United
 States the 93d.

W. W. HOLDEN, *Governor*.

By the Governor :

W. R. RICHARDSON, *Acting Private Secretary*.

A PROCLAMATION,

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
 RALEIGH, October 20th, 1869.

Notwithstanding the existence of peace and good order in

other portions of the State I regard it as my duty to announce that in four Counties, to-wit: Lenoir, Jones, Orange and Chatham, there is, and has been for some months past, a feeling of insubordination and insurrection, insomuch that many good citizens are put in terror for their lives and property, and it is difficult, if not impossible, to secure a full and fair enforcement of the law. Information has reached, and continues to reach the Executive, that in the above Counties a state of feeling exists which is totally incompatible with the free exercise, by the friends of the Government, of that independent expression of opinion, and that freedom of action which is the birthright of every American. In Lenoir and Jones various thefts and murders have been committed; jails have been forcibly opened and the prisoners taken thence have been murdered; an officer of the law has been waylaid and slain on the public highway, and another officer of the law has been slain in the open day while engaged in his ordinary avocations. Private dwellings have been entered and the occupants terrified, and some of them whipped or murdered; others have been shot or hanged or cruelly beaten; and the result is that thus far the civil law, though firmly asserted and maintained, has not been adequate to bring the insubordinate and the wicked to condign punishment. In Chatham the jail has been forcibly opened and a prisoner, confined under sentence of a Court of the United States, has been liberated and is now at large. In Orange the jail has been forcibly opened and two prisoners (colored men) taken out and shot, one of whom has died of his wounds. Three other colored men have been hanged until they were dead, one has been cruelly mutilated, and others have been whipped. White citizens have been injured, insulted and terrified. The University of the State, sacred to the cause of learning, has been repeatedly invaded by bands of armed men in disguise on horseback, and acts of violence have been there perpetrated on unoffending citizens and officers of the law. Many of the col-

ored people in these Counties, and no inconsiderable portion of the white people, though obedient to the law and good citizens, are living under constant apprehensions that they may fall victims at any moment to the malice of their enemies.

It is made my duty under the Constitution "to call out the militia to execute the law, suppress riots or insurrection and to repel invasion." I deeply regret that it seems necessary to resort to the military power to enforce the law and to protect the citizen. But the law must be maintained. I have waited in vain, hoping that a returning sense of reason and justice would arrest these violations of the law. But these evils, instead of diminishing have increased, and no course is left to me but to issue this proclamation of admonition and warning to all the people of the Counties mentioned, whether engaged in these flagrant violations of law, or whether indifferent or insensible to what is occurring in their midst. I now call upon every citizen in the Counties aforesaid to aid the civil power in a fearless enforcement of the laws. No set of men can take the law into their own hands. Every citizen, however humble, or whatever his color, has a right to be at peace in his own house, and cannot be taken thence except by due process, and cannot be punished save by the law. If there be those who counsel resistance to established authority, such persons are traitors and should be punished accordingly; if there be those who, disguised or masked, enter the dwellings of others, by force and commit acts of violence, such persons are guilty of felony, and should be punished by hard labor in the penitentiary; if there be those who, without precept or order, hang, or shoot, or otherwise deprive any one of life, such persons are murderers, and should be punished accordingly.

I now give notice in the most solemn manner, that these violations of law and these outrages in the aforesaid Counties *must cease*: otherwise, I will proclaim those Counties in a state of insurrection, and will exert the whole power of the State to enforce the law, to protect those who are assailed, or injured, and to bring criminals to justice. In a matter like

this there should be no party feeling. It is my fixed purpose to protect every citizen without regard to his antecedents, his color or his political opinions; but to do this the law must be sacred, must be spread over all alike, and must be inflexibly maintained.

Done at our City of Raleigh, this the 20th day of
 { L. S. } October, in the year of our Lord, one thousand eight
 { } hundred and sixty-nine, and in the ninety-fourth
 year of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor:

W. R. RICHARDSON, *Private Secretary.*

A PROCLAMATION

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
 RALEIGH, March 7th, 1870.

By virtue of authority vested in me by the Constitution of the State, and by virtue of an act passed at the present session of the General Assembly, entitled "An act to secure the better protection of life and property," ratified the 29th day of January, 1870, and for the reason that the civil authorities of the County of Alamance are not able to protect the citizens of said County in the enjoyment of life and property, I hereby proclaim and declare that the County of Alamance is in a state of insurrection.

On the 26th of November, 1869, a citizen of the United States, who was engaged in teaching a school in said County, was taken from his house by a band of men armed and disguised, and was by them cruelly beaten and scourged.

On the night of the 26th of February, 1870, a citizen of said County was taken from his house by a band of men armed and disguised, and was by them hanged by the neck until he was dead on the public square in the town of Graham, near the Court House.

And more recently the Postmaster at Company Shops, in said county, an officer of the Government of the United States, was compelled to flee the County, and while absent a band of men armed and disguised visited his house, with the purpose, doubtless, of taking his life; and this within a short distance of Federal troops stationed in said County, not to overawe or intimidate good citizens, but to preserve the peace and to protect the innocent and the law-abiding.

In addition to these cases information has been received at this department that peaceable and law-abiding citizens of the County aforesaid have been molested in their houses, have been whipped, shot, scourged, and threatened with further visitations of violence and outrage unless they would conform to some arbitrary standard of conduct set up by these disguised assassins and murderers.

I have issued proclamation after proclamation to the people of the State, warning offenders and wicked or misguided violators of the law to cease their evil deeds, and, by leading better lives, propitiate those whose duty it is to enforce the law. I have invoked public opinion to aid me in repressing these outrages, and in preserving peace and order. I have waited to see if the people of Alamance would assemble in public meeting and express their condemnation of such conduct by a portion of the citizens of the County, but I have waited in vain. No meeting of the kind has been held. No expression of disapproval even of such conduct by the great body of the citizens has yet reached this department; but, on the contrary, it is believed that the lives of citizens who have reported these crimes to the Executive have been thereby endangered, and it is further believed that many of the citizens of the County are so terrified that they dare not complain, or

attempt the arrest of criminals in their midst. The civil officers of the County are silent and powerless.

The laws must be maintained. These laws are over all. Every citizen, of whatever party or color, must be absolutely free to express his political opinions, and must be safe in his own house. These outrages and these violations of law must and SHALL cease. Criminals must and shall be brought to justice. The whole power of both governments, State and Federal, is pledged to this, and this power will be exerted. Criminals who may escape to counties adjoining Alamance will be pursued, and if not delivered up by the civil authorities of said counties, or if sheltered or protected in said counties with the knowledge of the civil authorities, the said counties will also be declared to be in a state of insurrection.

I earnestly appeal to all good citizens to aid the civil authorities in maintaining peace and good order, and to support me in my purpose to protect life and property without regard to party or color.

Done at the city of Raleigh, this 7th day of March, 1870, and in the 94th year of our Independence.

W. W. HOLDEN, *Governor*.

By the Governor:

W. R. RICHARDSON, *Private Secretary*.

A PROCLAMATION

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
RALEIGH, June 6th, 1870.

WHEREAS, In January or February, 1869, the house of DANIEL BLUE, colored, in the county of Moore, was entered at night

by a band of disguised men, known as the Ku Klux Klan, and the wife of the said Blue, who was pregnant, and five of the children were murdered, and the house with the bodies of the murdered persons aforesaid was burned; and

Whereas, on the 26th of February, 1870, Wyatt Outlaw, colored, a citizen of Alamance, was taken from his house in the town of Graham by disguised persons known as the Ku Klux, and hanged by the neck until he was dead, on a tree near the Court House; and

Whereas, on the 21st day of May, 1870, John W. Stephens, white, State Senator from the county of Caswell, was murdered in open day-light in the Court House in the village of Yanceyville, by persons unknown, supposed to belong to the Ku Klux Klan aforesaid; and

Whereas, on the 13th of May, 1870, Robin Jacobs, colored, living near Leasburg, Caswell county, was murdered at night by a band of the Ku Klux Klan aforesaid; and

Whereas, from the 2d of April, 1870, to the 15th of May, 1870, not less than twenty-one persons, white and colored, in the aforesaid county of Caswell, were cruelly whipped and scourged by a band or bands of the aforesaid Ku Klux Klan; and

Whereas, during the week ending the 14th of May, 1870, a colored man in the county of Lincoln was taken from his bed at night and tied to a tree by a band of disguised persons known as the Ku Klux Klan, and cruelly whipped; and

Whereas, about the same time, in said county, a band of men disguised, known as the Ku Klux Klan, in said county, shot a colored man on the public highway, and then told him they had shot him through mistake for another colored man, but laid him on a pile of fence rails and told him to cry for help; and

Whereas, a colored man named Puryear, of the county of Alamance, supposed to be half-witted, having followed two of the disguised murderers of Wyatt Outlaw to their homes, and having spoken of the fact publicly, suddenly disappeared, and

was found drowned in a mill pond with a twenty-pound rock to his feet; and

Whereas, T. M. Shoffner, one of the Senators in the General Assembly of this State from the counties of Alamance and Guilford, has been compelled to sacrifice his property, and, to save his life, to make his escape from said county on account of his opposition to the Ku Klux Klan aforesaid, and his devotion to the government of the United States; and

Whereas, on the 26th of May, 1870, a most atrocious murder was committed by three disguised men on Neill McLeod and Daniel McLeod, white, of the county of Cumberland, and three others of the family were wounded by these assassins; and

Whereas, in divers other localities peaceable citizens have been insulted in their houses, put in fear for their lives, whipped, scourged, maltreated, mutilated and murdered by persons disguised, and known as the Ku Klux Klan; and whereas, retaliation has commenced by the burning of barns, stables and mills; and whereas, all these evils are to be traced to the Ku Klux Klan aforesaid, though no apology can be offered for the retaliation referred to, for it is equally to be deplored and reprobated as a wicked violation of the law; and upon due information laid before me, (which information has not been furnished,) that barns, or stables, or mills, or dwelling houses, have been burned by incendiaries, mentioning localities and the persons to whom the said barns, or stables, or mills, or dwelling houses belonged, rewards will also be offered for the arrest and conviction of the incendiaries aforesaid:

NOW, THEREFORE, I, WILLIAM W. HOLDEN, Governor of the State of North Carolina, do issue this my proclamation, offering a reward of FIVE HUNDRED DOLLARS for the arrest of each of the murderers of the wife and children of Daniel Blue, of each of the murderers of Wyatt Outlaw, of each of the murderers of John W. Stephens, of each of the murderers of Robin Jacobs, of each of the persons who murdered Puryear, and of each of the persons who murdered Neill McLeod and Daniel McLeod, and robbed the family of the said Neill

McLeod, together with such evidence as will lead to the conviction of the persons thus arrested; those who planned, advised or counselled the commission of the act; those who participated in the act or acts; or those who conspired to conceal the bodies of the murdered, or aided in the concealment and escape of the felons:

And I enjoin upon all officers, civil and military, to aid in bringing these and all other offenders to justice; and especially to discountenance, discourage, and repress all organizations of men who ride or walk at night in disguise, with arms in their hands. It is a misdemeanor thus to go disguised, and it is felony if these disguised persons molest or injure peaceable citizens in their life and property.

Done at our city of Raleigh, this sixth day of
 { L. S. } June, in the year of our Lord one thousand eight
 hundred and seventy, and in the ninety-fourth year
 of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor:

W. R. RICHARDSON, *Private Secretary.*

EXPARTE BOYD AND OTHERS.

Mr. R. C. Badger, counsel for the Executive, appeared and read the following reply to the Chief Justice's letter of yesterday.

EXECUTIVE OFFICE,
RALEIGH, July 19, 1870.

To the HON. RICHMOND M. PEARSON,
Chief Justice of North Carolina :

SIR:—Your communication of yesterday concerning the arrests made by Col. Geo. W. Kirk, together with the enclosed, is received.

I respectfully reply:—That Col. Geo. W. Kirk made the arrests and now detains the prisoners named by my order. He was instructed firmly but respectfully to decline to deliver the prisoners. No one goes before me in respect for the civil law, or for those whose duty it is to enforce it, but the condition of Alamance county, and some other parts of the State, has been and is such that, though reluctant to use the strong powers vested in me by law, I have been forced to declare them in a state of insurrection.

For months past there has been maturing in these localities, under the guidance of bad and disloyal men, a dangerous secret insurrection. I have invoked public opinion to aid me in suppressing this treason! I have issued proclamation after proclamation to the people of the State to break up these unlawful combinations! I have brought to bear every civil power to restore peace and order, but all in vain! The Constitution and laws of the United States and of this State are set at naught; the civil courts are no longer a protection to life, liberty and property; assassination and outrage go unpunished, and the civil magistrates are intimidated and are afraid to perform their functions.

To the majority of the people of these sections the approach of night is like the entrance into the valley of the shadow of death; the men dare not sleep beneath their roofs at night, but abandoning their wives and little ones, wander in the woods until day.

Thus civil government was crumbling around me. I determined to nip this new treason in the bud.

By virtue of the power vested in me by the Constitution and laws, and by that inherent right of self-preservation which belongs to all governments, I have proclaimed the county of Alamance in a state of insurrection. Col. Geo. W. Kirk is commanding the military forces in that county, made the arrests referred to in the writ of *habeas corpus*, and now detains the prisoners by my order.

At this time I am satisfied that the public interests require that these military prisoners shall not be delivered up to the civil power.

I devoutly hope that the time may be short when a restoration of peace and order may release Alamance county from the presence of military force and the enforcement of military law. When that time shall arrive I shall promptly restore the civil power.

W. W. HOLDEN.

Governor.

On the conclusion of the reading of the communication from the Executive, Mr. Badger read various Proclamations issued from the Executive office at various times within the last two years in reference to various Ku Klux outrages and disorders in the counties of Jones, Lenoir, Alamance, &c.

Chief Justice said, before the argument opens I will observe to the counsel the object of argument is to aid me in forming an opinion on four questions of law:

1. Do the facts set out by his Excellency show that Col. Kirk had a "reasonable excuse" for not making return to the

writs of *habeas corpus*, as so to release him from the powers and penalties of an attachment?

2. Do the facts set out show an "insurrection" and a condition of things, putting the lives and property of our citizens in such imminent peril as to suspend the writ of *habeas corpus* in the counties subject to military occupation?

3. Suppose the writ not to be suspended as in the present condition of the country, it is highly probable, nay, in my opinion *certain*, that an order to the Sheriff of a county to call out "the power of the county," and with force take the petitioners out of the hands of the military authorities will plunge the whole State into civil war,—should not the act of 1868-'69, be so construed as to make it subservient to that clause of the constitution, which confers power on the Governor to call out the militia to suppress riots and insurrection, in counties where the Governor has exercised this power and taken military possession?

4. If so, should the writ be directed to the Governor?

I shall be pleased to hear argument on these subjects as questions of law, and will leave it to the good sense of the counsel to decide, whether an excited discussion such as on yesterday, will be calculated either to aid me in forming an opinion, or to answer any other useful purpose.

PEARSON.

OPINION OF CHIEF JUSTICE PEARSON IN THE HABEAS CORPUS CASE OF A. G. MOORE.

EX PARTE, ADOLPHUS G. MOORE.

Upon proof of service and the failure of Col. Kirk to return the writ, the counsel of the prisoner submitted two motions:

1. For an attachment against G. W. Kirk for failing to make return;

2. For a writ, to be directed to the Sheriff of some county, commanding him, with the power of the county, if necessary, to take the prisoner out of the hands of said Kirk and have him before the Chief Justice.

The fact of service and the failure to make return was a sufficient foundation for these motions. But the affidavit sets out further that G. W. Kirk said "he was acting under the orders of Gov. Holden, and should make no return."

This extraneous matter, if true, had in my judgment an important bearing on the pending motions, and not being at liberty to assume it to be true on the verbal statement of Col. Kirk, I addressed a communication to his Excellency, asking to be informed if Col. Kirk had his orders. The purpose was to have the orders to Col. Kirk avowed or disavowed, and make it a fixed fact one way or the other, and to afford an opportunity to his Excellency, if avowed, of setting out the ground of his action, and of being heard by counsel. The cause of truth is always served by argument on both sides.

1. The main question, and one on which both motions depend, is this: Does the fact that the Governor had declared the county of Alamance to be in a state of insurrection, and had taken military possession, have the legal effect to suspend the writ of *habeas corpus* in that county? If so, the prisoner takes nothing by either motion; if otherwise, it will become necessary to give them further consideration.

It was insisted by the counsel of the prisoner that the Gov-

ernor's reply is no part of this proceeding, and cannot be noticed. In my opinion it forms a part of the proceeding to the extent of the avowal of the orders given to Col. Kirk, (that is in direct response to my inquiry,) and of the fact that in the exercise of the power conferred on him, he had declared the county of Alamance to be in a state of insurrection—taken military possession and ordered the arrest and detention of the petitioner, as a *military* prisoner; the action of his Excellency is relevant, for, if the privilege of the writ of *habeas corpus* be suspended, the writ now sued for ought not to be awarded—(*ex parte Tobias Watkins*, 3, *Peters* 193.) The Chief Justice says: "The writ ought not to be awarded, if the Court is satisfied that the prisoner would be remanded." This case is cited and approved. (*Ex parte Milligan* 4, *Wallace* 111.)

His Excellency was also pleased to set out some of the special facts that satisfied him that the civil authorities of the county were unable to protect its citizens in the enjoyment of life and property; it is not mine to pass upon these facts or judge of their sufficiency.

Mr. Badger, of counsel for His Excellency, relied on the Constitution. "The Governor shall be commander-in-chief, and have power to call out the militia to execute the law, suppress riots or insurrections and to repel invasion."—Art. XII, Sec. 3, and on the statute act 1869-'70, chap. XXVII, sec. 1—"The Governor is hereby authorized and empowered, whenever in his judgment the civil authorities in any county are unable to protect its citizens in the enjoyment of life and property, to declare such county to be in a state of insurrection, and to call into active service the militia of the State, to such an extent as may become necessary to suppress the insurrection;" and he insisted:

1. This clause of the Constitution and the statute empowers the Governor to declare a county to be in a state of insurrection whenever, in *his judgment*, the civil authorities are unable to protect its citizens in the enjoyment of life and property. The Governor has so declared in regard to the county of Ala-

mance, and the judiciary cannot call his action in question or review it, as the matter is confided solely to the judgment of the Governor.

2. The Constitution and this statute confers on the Governor all the powers "necessary" to suppress the insurrection, and the Governor has taken military possession of the county and ordered the arrest and detention of the petitioner as a *military prisoner*. This was necessary, for unlike other insurrections it is not open resistance, but a novel kind of insurrection, seeking to effect its purpose by a secret association spread over the country, seeking to effect its purpose by secret association, scourging and other crimes committed in the dark, and evading the civil authorities, by masks and fraud, perjury and intimidation.

It follows, that the privilege of the writ of *habeas corpus*, is suspended in that county, until the insurrection be suppressed.

I accede to the first proposition; full faith and credit are due to the action of the Governor in this matter, because he is the competent authority, acting in pursuance of the constitution and the law. The power, from its nature, must be exercised in the executive, as in case of invasion or open insurrection. The extent of the power is alone the subject of judicial determination.

As to the second, it may be that the arrest and also the detention of the prisoner is necessary, as a means to suppress the insurrection. But I cannot yield my assent to the conclusion: the means must be *proper* as well as necessary, and the detention of the petitioner as a military prisoner, is not a proper means. For it violates the declaration of rights. "The privilege of the writ of *habeas corpus*, shall not be suspended,"—*Constitution, Art. 1, Sec. 21.*

This is an *express* provision, and there is no rule of construction or principle of constitutional law, by which an express provision can be abrogated and made of no force by an *implication* from any other provision of the instrument. The clauses should be construed, so as to give effect to each and prevent

conflict. This is done, by giving to Art. XII, Sec. 3, the effect of allowing military possession of a county to be taken and the arrest of all suspected persons, to be made by military authority, but requiring by force of Art. 1, sec. 21, the persons arrested, to be surrendered for trial, to the civil authorities on *habeas corpus*, should they not be delivered over without the writ.

This prevents conflict with the *habeas corpus* clause and harmonises with the other articles of the "declaration of rights" trial by jury, &c., all of which have been handed down to us by our fathers, and by our English ancestors, as great fundamental principles, essential to the protection of civil liberty.

I declare my opinion to be, that the privilege of the writ of *habeas corpus* has not been suspended by the action of his Excellency; that the Governor has power under the constitution and laws to declare a county to be in a state of insurrection, to take military possession, to order the arrest of all suspected persons, and to do all things necessary to suppress the insurrection, but he has no power to disobey the writ of *habeas corpus*, or to order the trial of any citizen, otherwise than by jury. According to the law of the land, such action would be in excess of his power.

The judiciary has power to declare the action of the executive as well as the acts of the General Assembly, when in violation of the constitution, void and of no effect. Having conceded full faith and credit to the action of his Excellency, within the scope of the power conferred on him, I feel assured he will in like manner give due observance to the law as announced by the judiciary. Indeed he cannot refuse to do so, without taking upon himself the responsibility of acting on the extreme principle, "The safety of the State is the supreme law." I will venture to hope, as evil as the times may be, our country has not yet reached the point, when a resort to extreme measures has become a public necessity.

2. The motion for an attachment against Col. Kirk is based

on the *habeas corpus* act, acts 1868-'69, chapter 1, sec. 15. "If any person on whom a writ of *habeas corpus* is served, shall refuse or neglect to obey the same by producing the body, &c., within the time required, and *no sufficient excuse be shown*, it shall be the duty of the Judge or Court forthwith to issue an attachment against such person to the Sheriff of any county in the State, commanding him immediately to arrest such person and bring him before the Judge or Court, and such person shall be committed to jail, until he shall make return to the writ and comply with any order that may be made in *relation to the party* for whose relief the writ shall have been issued."

Col. Kirk has refused to make return. The question is, do the facts before me "show a sufficient excuse?" The affidavit sets out that Col. Kirk put his refusal on the ground that he had orders from his commander-in-chief, who is the Governor of the State, not to obey the writ. His Excellency avows that Col. Kirk was acting under his orders. So, we have this case: Col. Kirk is commanded by the Chief Justice to produce the body. He is ordered by his Commander-in-Chief not to obey the writ. What was the man to do? He elected to obey his orders. In my opinion there was sufficient excuse for refusing to return the writ. The motion is not allowed.

The act in question does not rest on the idea of punishing for a *contempt of the Judge or Court*, but of compelling a return to the writ, and the production of the body. It is a substitute for the provision in "the old *habeas corpus* act," which punished the officer or person refusing or neglecting to make due return, "upon conviction by indictment," with a fine of \$500 for the first offence, of \$1000 and incapacity to hold office for the second. The late act is an improvement upon the former, by substituting the speedy remedy of attachment in place of indictment, and the severe punishment of imprisonment in place of fine. Both acts are evidently intended to punish for not making return, and the last is also intended for the immediate relief of the party in whose behalf the writ is issued. The motion of punishing for a contempt of the Judge

or Court is not involved in either act, certainly not in that of 1868-'69; that is provided for by "the contempt act," (same session.) The proceeding is, by *a rule to show cause*, why an attachment should not issue. And yet I was urged, with much vehemence, by learned and aged counsel, to rule Col. Kirk up for a contempt of the Chief Justice in this: The affidavit of service sets out that Col. Kirk, when the writ was served, said, "tell them such things are played out: I have my orders from Governor Holden and shall not obey the writ." "I will surrender them on Gov. Holden's order, but not otherwise, unless they send a sufficient force to whip me." This, as was well said by Mr. Badger, is the language of a rude soldier, and not as courteous as we usually find in judicial proceedings. The motion for a rule to show cause for this contempt is not pertinent to the matter now on hand. The evidence on which it rests comes in a questionable shape—extraneous matter put into an affidavit of service to excite prejudice, and the motion made at the instance of one who is under arrest for the horrid crime of murder by midnight assassination! At a time when, as Mr. Bragg feelingly remarked, "we are in the last ditch, we look to the judiciary as our only hope. If that fails us, the country is gone! gone! gone!" I do not feel it to be my duty to leave grave matters, and then turn aside, to put a rule on a rude soldier to show cause, for making a flippant speech. I will be borne out by every member of the profession in saying, during the thirty-five years I have had the honor of a seat on the bench, I have never been slow to punish for contempt and preserve the dignity of the Court, when I believe there was an intent to assail it. I know my duty and trust I have firmness enough to discharge it. These remarks seem called for because of the earnestness with which the motion was pressed in language more courtly but fully as strong as that used by the rude soldier, and the excited manner in which I was reminded of my duty, and exhorted to perform it; nay, the oath of office was read to me and I had the benefit of hearing read much of the lofty language of Lord Mansfield.

3. The motion for a precept directed to the sheriff of some county to bring the petitioner forthwith before me, and if necessary, to take with him the power of the county, is based on the 17th and 18th sections of the *habeas corpus* act. "The Court or Judge may direct a precept to any sheriff, coroner or other person to be designated therein, commanding him to bring forthwith before such Court or Judge the party, (wherever to be found,) for whose benefit the writ of *habeas corpus* shall have been granted." "In the execution of this writ the sheriff or person designated may call out the power of the county."

The petitioner is entitled to this writ; the only question is, to whom should it be directed. The motion is that it should be directed to the Sheriff of some county.

I have considered the matter fully, and have come to the conclusion not to direct it to a sheriff. The act gives a discretion. In the present condition of things, the counties of Alamance and Caswell declared to be in a state of insurrection and occupied by military forces, and the public mind feverishly excited; it is highly probable, nay, in my opinion, certain, that a writ in the hands of a Sheriff, (with authority to call out the power of the county,) by which he is commanded with force, if necessary, to take the petitioner out of the hands of the military authorities, will plunge the whole State into civil war.

If the Sheriff demands the petitioner of Col. Kirk, with his present orders, he will refuse, and then comes war. The country has had war enough. But it was said by the counsel of the petitioner, "if in the assertion of civil liberty, war comes, let it come! The blood will not be on your hands or on ours; it will be on all who disregard the sacred writ of *habeas corpus*. Let justice be done if the heavens fall."

It would be to act with the impetuosity of youth and not with the calmness of age, to listen to such counsels. "Let justice be done if the heaven falls," is a beautiful figure of speech, quoted by every one of the five learned counsel. Justice

must be done, or the power of the Judiciary be exhausted, but I would forfeit all claim to prudence tempered with firmness, should I, without absolute necessity, add fuel to the flame, and plunge the country into civil war, provided my duty can be fully discharged without that awful consequence. Wisdom dictates, if justice can be done, "let heaven stand." Unless the Governor revokes his orders, Col. Kirk will resist; that appears from the affidavit of service.

The second branch of the motion, that the power of the county be called out if necessary to aid in taking the petitioner by force out of the hands of Kirk, is as difficult of solution as the first.

The power of the county, or "*posse comitatus*," means *the men of the county in which the writ is to be executed*: in this instance Caswell, and that county is declared to be in a state of insurrection. Shall *insurgents* be called out by the person who is to execute the writ, to join in conflict with the military forces of the State?

It is said a sufficient force will volunteer from other counties; they may belong to the association, or be persons who sympathize with it. But the "*posse comitatus*" must come from the county where the writ is to be executed; it would be illegal to take men from other counties. This is settled law; shall illegal means be resorted to in order to execute a writ?

Again; every able-bodied man in the State belongs to the militia. The Governor is by the Constitution "commander-in-chief of the militia of the State," Art. III, sec. 8. So the power of the county is composed of men who are under the command of the Governor; shall these men be required to violate, with force, the orders of their Commander-in-Chief, and do battle with his other forces that are already in the field? In short, the whole physical power of the State is by the Constitution under the control of the Governor; the Judiciary has only a moral power; by the theory of the Constitution there can be no conflict between these two branches of the government.

The writ will be directed to the Marshal of the Supreme Court, with instructions to exhibit it, and a copy of this opinion to His Excellency the Governor. If he orders the petitioner to be delivered to the Marshal, well; if not, following the example of Chief Justice Tany, in *Merriman's case* *Annual Cyclopædia*, for the year 1861, page 555, I have discharged my duty; the power of the Judiciary is exhausted, and the responsibility must rest on the Executive.

PEARSON.

The following is the order of the Chief Justice, to the Marshal:

To David A. Wicker, Marshal of the Supreme Court:

You are hereby commanded, in the name of the State of North Carolina, forthwith to bring James S. Scott, wherever to be found, before me, Richmond M. Pearson, Chief Justice of the Supreme Court, at the room of the Supreme Court in the city of Raleigh.

Herein fail not, have there this writ and make due return.

R. M. PEARSON,

Chief Justice Supreme Court.

INSTRUCTION:—You will wait upon his Excellency, the Governor, exhibit to him this writ, and a copy of the opinion in *Moore's case*, and make due return to me.

R. M. PEARSON,

Chief Justice Supreme Court.

EXECUTIVE DEPARTMENT,
RALEIGH, July 26, 1870.

To the HON. R. M. PEARSON,
Chief Justice of the Supreme Court of N. C.:

SIR:—I have had the honor to receive, by the hands of the Marshal of the Supreme Court, a copy of your opinion in the matter of A. G. MOORE; and the Marshal has informed me of the writ in his hands for the body of said MOORE, now in the custody of my subordinate officer, Col. GEORGE W. KIRK.

I have declared the counties of Alamance and Caswell in a state of insurrection, and have taken military possession of them. This your Honor admits I had the power to do “under the Constitution and laws.” And not only this, “but to do *all* things necessary to suppress the insurrection,” including the power to “arrest all *suspected* persons” in the above-mentioned Counties.

Your Honor has thought proper also to declare that the citizens of the Counties of Alamance and Caswell are *insurgents*, as the result of the Constitutional and lawful action of the Executive, and that therefore, you will not issue the writ for the production of the body of Moore to any of the men of the said Counties; that “the *posse comitatus* must come from the County where the writ is to be executed,” and that any other means would be illegal.

I have official and reliable information that in the Counties above named, during the last twelve months, not less than one hundred persons, “in the peace of God and the State,” have been taken from their homes and scourged, mainly if not entirely on account of their political opinions; that eight murders have been committed, including that of a State Senator, on the same account; that another State Senator has been compelled from fear for his life to make his escape to a distant State. I have reason to believe that the governments of the

said Counties have been mainly if not entirely in the hands of men who belong to the Kuklux Klan, whose members have perpetrated the atrocities referred to; and that the County governments have not merely omitted to ferret out and bring to justice those of this Klan who have thus violated the law. but that they have actually shielded them from arrest and punishment. The State judicial power in the said Counties, though in the hands of energetic, learned and upright men, has not been able to bring criminals to justice: indeed, it is my opinion, based on facts that have come to my knowledge, that the life of the Judge whose duty it is to ride the circuit to which the said Counties belong, has not been safe, on account of the hatred entertained towards him by the Klan referred to, because of his wish and purpose to bring said criminals to justice. For be it known to your Honor that there is a widespread and formidable secret organization in this State, partly political and partly social in its objects; that this organization is known, first, as "*The Constitutional Union Guard*,"—secondly, as "*The White Brotherhood*,"—thirdly, as "*The Invisible Empire*:"—that the members of this organization are united by oaths which ignore or repudiate the ordinary oaths or obligations that rest upon all other citizens to respect the laws and to uphold the government; that these oaths inculcate hatred by the white against the colored people of the State; that the members of this Klan are irreconcilably hostile to the great principle of political and civil equality, on which the government of this State has been reconstructed; that these Klans meet in secret, in disguise, with arms, in uniform of a certain kind intended to conceal their persons and their horses, and to terrify those whom they assault or among whom they move; that they hold their camps in secret places, and decree judgment against their peaceable fellow-citizens, from mere intimidation to scourgings, mutilations and murder, and that certain persons of the Klan are deputed to execute these judgments; that when the members of this Klan are arrested for violations of law, it is most difficult to obtain bills of indictment against them, and still more difficult to convict them, first, because some of the members or their sympathizers are almost always on the grand and petit juries, and secondly, because witnesses who are members or sympathizers unblushingly commit perjury to screen their confederates and associates in crime; that this Klan, thus constituted and having in view the objects referred to, is very powerful in at least twenty-five Counties of the State, and has had absolute

control for the last twelve months of the Counties of Alamance and Caswell.

Under these circumstances I would have been recreant to duty and faithless to my oath, if I had not exercised the power in the several Counties which your Honor has been pleased to say I have exercised Constitutionally and lawfully; especially as, since October, 1868, I have repeatedly, by proclamations and by letters, invoked public opinion to repress these evils, and warned criminals and offenders against the laws of the State that must in the end overtake them, if, under the auspices of the Klan referred to, they should persist in their course.

I beg to assure your Honor that no one subscribes more thoroughly than I do to the great principles of *habeas corpus* and trial by jury. Except in extreme cases, in which beyond all question "the safety of the State is the supreme law," these privileges of *habeas corpus* and trial by jury should be maintained.

I have already declared that, in my judgment, your Honor and all the other civil and judicial authorities are unable *at this time* to deal with the insurgents. The civil and the military are alike Constitutional powers—the civil to protect life and property when it can, and the military only when the former has failed. As the Chief Executive I seek to restore, not to subvert, the judicial power. Your Honor has done your duty, and in perfect harmony with you I seek to do mine.

It is not I nor the military power that has supplanted the civil authority; that has been done by the insurrection in the Counties referred to. I do not see how I can restore the civil authority until I "suppress the insurrection," which your Honor declares I have the power to do; and I do not see how I can surrender the insurgents to the civil authority until that authority is restored. It would be a mockery in me to declare that the civil authority was unable to protect the citizens against the insurgents, and then turn the insurgents over to the civil authority. My oath to support the Constitution makes it imperative on me to "suppress the insurrection" and restore the civil authority in the Counties referred to, and this I must do. In doing this I renew to your Honor expressions of my profound respect for the civil authority, and my earnest wish that this authority may soon be restored to every County and neighborhood in the State.

I have the honor to be, with great respect,

Your obedient servant,

W. W. HOLDEN,

Governor.

EXTRACTS FROM THE INAUGURAL ADDRESS OF
GOV. W. W. HOLDEN, DELIVERED IN CAPITOL
SQUARE, RALEIGH, JULY 4, 1868.

"The Constitution provides for organizing and arming the militia to "execute the law, suppress riots or insurrections and to repel invasion." The opinion of Washington, uttered in 1790, that a "free people ought not only to be armed, but disciplined," and that a well organized militia "is certainly an object of primary importance, whether viewed in reference to the national security, to the satisfaction of the community, or to the preservation of order," is not less weighty or important now than it was then. The militia should be organized at once. It is the duty of the Executive to see that the laws are faithfully executed and to preserve peace among the people. This duty will be performed promptly, fearlessly and firmly. Every citizen must submit to lawful authority, or refusing to do so, must expect the penalties of the violated law. In the language of our great General, second only to him who was "first in war, first in peace, and first in the hearts of his countrymen,"—"LET US HAVE PEACE!" The sword, which would not have been drawn but for the criminal folly of the recently insurgent States, should never again be wielded by Americans against Americans. Every interest that is dear to us, and every hope that we may indulge for the future, is indissolubly bound up with peace and tranquility among ourselves. But there can be no peace without law, and there can be no efficacy in law without obedience. The law is over all. The poor and the humble should be protected to as full an extent as others. They need more than others this protection. Every one must be free to use what is his own, not trespassing on the rights of others; to follow his particular calling or employment; to labor, and to enjoy the fruits of his labor; to speak freely his sentiments and to vote as he pleases, and not to be injured or questioned by any for doing any of these things. The people of North Carolina are proverbial for their law-abiding disposition. It is not apprehended that disturbances will arise, or that combinations will be formed to resist the laws; yet it is known that many hold the opinion that the reconstruction laws of the United States are unconstitutional, and therefore null and void; and it may be that this may lead, if not to open resistance, to a forcible denial in some localities of the rights guaranteed by the Constitution of the State, formed and adopted in pursuance of said laws. It is also known that a disposition exists, among no inconsiderable por-

tion of our population, to oppress the poor whites and the colored race on account of their political opinions. The magistrates and the courts will be sustained by the whole power of the State, in such action as may be deemed necessary to protect those who may be thus wronged or oppressed; and the magistrates and the courts will be sustained by the whole power of the State in giving effect to the Constitution itself, as having been fairly, justly and properly adopted, and as binding in all respects on every citizen until changed or modified in the mode prescribed in the instrument itself. Differences in political sentiment are to be expected, and are not calculated in themselves to endanger the State; but a purpose to subvert the Government, on the assumption that it is not properly derived, has not been constitutionally adopted, and is illegitimate and not binding, should be narrowly watched and promptly checked on the first manifestation of any overt act on the part of those cherishing such purpose. The Constitution of this State is, under the Constitution of the United States, the supreme organic law. The Government which it establishes, and the laws passed in pursuance of it, will be maintained and enforced. To render resistance, therefore, impracticable, if not impossible, and to maintain the peace by executing the laws in a spirit of justice to all, it is deemed essential that a portion of the militia should be well disciplined and armed, and should be thus ready at any moment, under the orders of the commander-in-chief, for active duty."

* * * * *

"Fellow-citizens, let us come out of the caverns of the past, and forgetting whatever is not worthy to be remembered, let us resolve to do our duty in our day and time, as North Carolinians, as Americans. In a climate and with a soil for which Providence has done so much, let us resolve to do something for ourselves and our children. Let us devote ourselves to the arts of peace. Let us improve this great inheritance. Let our children and our children's children, when they shall come to take our places, say of us, "Our ancestors remembered and did what was wise, and what was good for us. Behold, the beautiful country they have left to us! the just and equal laws that are over us, and the hope that their work has made strong in us that we can do even more for our children than they have done for us.' Let us at least unite upon the one great object of improving and building up the State. Let us welcome capital and immigration, furnishing as they will the indispensable means to our progress and prosperity. Prejudices growing out of nativity, or out of the rebellion, are not worthy to be cherished. Let us discard such prejudices. We are once more

Americans—all. Let us receive with courtesy and kindness every citizen of the Northern or Eastern States who may cast his lot among us, and measure him as we measure others, according to his personal and moral worth. We cannot hope to improve our condition if we repel capital and immigration, either by so acting as to produce the belief that it is not safe to settle among us on account of the want of law and order, or unpleasant, because of rude or uncivil treatment to the immigrant. It should be remembered that our ancestors were, originally, as much "adventurers" as others. Of the three signers of the Declaration of Independence for this State, neither was a native. Richard Caswell, one of our greatest Governors, and sometimes called the Washington of North Carolina, was not a native; nor was Joseph Caldwell, who built up our University and led the way with Murphy, Yancey, Stanly, Saunders and others in internal improvements and public instruction.

We want the best people from Europe, and from all parts of the United States to settle among us. It is *men* that make a State. Let them come, with their enterprise and money, their muscle and intelligence; and when they get here let the rivalry be as to who shall do most for the good and the glory of our beloved State.

The government of the United States, in the prosecution of the war to suppress the rebellion, and in the measures it has adopted to reconstruct the Union, has exhibited extraordinary clemency and magnanimity. It has taken no vengeance for the past, but has required only security for the future. It has deprived no man of his property save for war purposes during the progress of the war; it has exiled no man; it has punished no man for the crime of rebellion. It has simply required that those who have been in rebellion should renew their allegiance, and that such guards should be placed in the organic laws of the States and the nation as to prevent future rebellion. Instead of defining or restricting suffrage permanently, it has left it with the respective States to be determined and settled as they may choose; and this State, following in full measure the example of the national government, has made suffrage free to all.

But the war to suppress the rebellion has, in its results, necessarily changed as it has settled the theory of construction previously held by a large portion of the people. Our liberties have been consolidated, and the Union can, in no event, be dissolved. It is to endure always. It must increase, but never decrease. For all great national purposes the Government of the United States is over the States, and paramount to the

States, and the allegiance of the citizen is first due to it. There is no appeal from the will of the nation, expressed by a majority. Armed resistance to the national authority, whether by individuals of their own accord, or by individuals acting under supposed State authority or command, is *treason*, and must be so held and treated. The doctrine of State's rights, as held by Mr. Calhoun and his followers, has ceased to have validity or vitality; and the teachings and doctrines of Washington, Hamilton, Webster, Jackson, Clay and Lincoln now constitute the true, and the only safe theory of construction. This has been settled, under Providence, by the result of a solemn appeal to arms among brethren; and he who would unsettle this theory, thereby rendering it possible that secession should ever again be attempted, is no friend to his species, to his State, or to the general government of his country. The government of the United States is no longer a feeble luminary, receiving and dispensing light to surrounding planets; but it is a full sun, burning with superior splendor, pervading and holding up to itself the entire system, and kindling new planets into life and motion. How beneficent, how glorious, how far-reaching will be the light it will dispense when it reaches its meridian, we shall not live to see, but the generations to come after us will walk in that light, and be contented, prosperous and happy. In the fullness of their gratitude they will thank God, as we do, that the government of the United States, delivered from the perils of rebellion, and reconstructed on the basis of the equal rights of all, is as indestructible as the earth itself, and as secure in its position and in the exercise of all its great powers, as

"The Northern star,
Of whose true, fixed and resting quality,
There is no fellow in the firmament."

I have thus, fellow citizens, stated briefly and plainly the great principles contained in our State Constitution, and I have frankly announced the policy which will characterize my administration. Cherishing neither malice nor resentment for anything which has occurred in the past, I shall endeavor to do my duty. I shall keep constantly in view the welfare of North Carolina. I love the Union because it is the first, the last, the only hope of my State; and I love my State, because her people have been good and kind to me, and because her sky is above my home, as it will be above my grave. If I have enemies, that does not make me an enemy to my State, nor move me to a course of action based on resentment or revenge. I follow the principles of WASHINGTON, who founded, and of LINCOLN, who saved the Republic; and when these principles cease to lead, I shall cease to follow. May the God of our fathers have us in His holy keeping; may He govern, and not we; and may the future of our beloved State be as bright and glorious as the last seven years have been disastrous and unhappy."

LIBRARY OF CONGRESS



0 014 419 018 A

